IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 15801 of 2004

Between:

1 S. Ravi Prasad, S/o. S. Venakta Ramana,
Commercial RESCO Limited, Rayachoty, Cuddapah District.
2 R. Gangi Reddy, S/o. Late R. Subba Reddy,
Sub-Station, Lakkireddy Palli, Cuddapah District

.....PETITIONERS

AND

1 The Commissioner & Registrar of Cooperative Societies, Nampally, Hyderabad.
2 The District Collector, Cuddapah, Cuddapah District.
3 The RESCO Limited, Rep. by its Managing Director/Liquidator Rayachoty, Cuddpah District.

.....RESPONDENS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the Transfer Orders issued by the 3rd respondent vide his proceedings in RC.No.RESCO/RCT/ADM/440/2004 dated 05-08-2004 and RC.No.RESCO/RCT/ADM/520/2004 dated 21-08-2004 as arbitrary, illegal, politically motivated and violative of the fundamental rights guaranteed to the petitioners under Article 14 of the Constitution of India and consequently set aside the same.

Counsel for the Petitioner:MR.JATUR.BHARATH REDDY

Counsel for the Respondents: GP FOR COOPERATION

The Court made the following :

The Hon’ble Sri Justice

K.C. Bhanu

W.P. No. 15801 of 2004

O R D E R:

Challenging the transfer orders issued by the 3rd respondent vide proceedings in Rc.No.RESCO/RCT/ADM/440/2004 dated 5.8.2004 and RC No. RESCO/RCT/ADM/520/2004 dated 21.8.2004, the present writ petition is filed.

The brief facts that are necessary for the disposal of the present writ petition may be stated as follows:

In the year 2003, the then Managing Director of the 3rd respondent effected transfers, transferring the 2nd petitioner from Expenditure Section to Administration Section. As the 3rd respondent is declared as non-viable due to heavy losses, the then Managing Director was appointed as Liquidator vide proceedings dated 1.7.2003. Due to change in the political scenario, one Mr. M. Khaleel Baig, who is a Congress sympathizer is appointed as Managing Director/Liquidator of the 3rd respondent in the month of June, 2004. It is alleged that the Managing Director who is hand in glove with the local Congress Party leaders is acting in accordance with the directions given by them instead of discharging his functions as Managing Director/Liquidator. The Managing Director of the 3rd respondent transferred the 1st petitioner from withdrawing the additional charge of S.P.M. Section and to hold the post of Commercial Section as regular charge and the 2nd petitioner was transferred from Admn. Section, Head Office and posted to Sub-Division Office, L.R. Palli, basing on the report of the Youth Congress. Again the 3rd respondent issued proceedings dated 5.8.2004

transferring the 1st petitioner from Head Office to Chinnamandem and the 2nd petitioner from L.R. Palli to Chinnamandem Section. By proceedings dated 21.8.2004, the 1st petitioner was once again transferred to Lakkireddi Palli Section. In view of the 1st transfer orders dated 6.7.2004 he is working in Commercial Section at Head Office and the 2nd petitioner is working as Senior Assistant at L.R. Palli. Even though the 3rd respondent issued transfer orders dated 5.8.2004 and 21.8.2004, they are not relieved so far. It is alleged that the Managing Director is resorting to transfer the employees of the 3rd respondent from one place to another without taking into consideration the administrative convenience and causing problems to the employees of the 3rd respondent. Challenging the same, the present writ petition is filed.

The respondents filed counter affidavit stating that the 2nd petitioner was transferred from Expenditure Section to Administration Section as he was working there since long time. So, for administrative convenience he was transferred to Sub-Divisional Office, L.R. Palli. The allegation that the respondents are hand in glove with the local Congress Party is not correct. As the 1st petitioner is misbehaving with the consumers, some Congress Party leaders have given written complaint. Therefore, in the interest of the petitioner and as per the administrative convenience he was transferred to L.R.Palli. Again on the complaint at L.R. Palli he was transferred to Head Office but he did not join the post and went on leave for avoiding to join in the new post. As the 1st petitioner after joining in Commercial Section received numerous complaints including from Youth Congress leaders, he was transferred from Head Office to Lakkireddipalli with the orders of the District Collector. It is specifically denied that the political leaders are interfering with the service matters of the 3rd respondent. It is stated that the transfers are made on administrative grounds and in public interest in order to run the office in a smooth and fair manner. Hence, the respondents

pray to dismiss the writ petition.

Learned counsel for the petitioners contended that it is at the behest of the Youth Congress Leaders the transfers are being effected within a short span and therefore the transfer orders are effectuated with mala fide intention of the respondents. Hence, he prays to set aside the same as violative of Article 14 of the Constitution.

On the other hand, the respondents' counsel contended that as several complaints were received against the petitioners including from the political parties, for administrative reasons the petitioners have been transferred and that transfer is an incidence of service and the petitioners cannot claim any right to remain at a particular place. Hence, he prays to dismiss the writ petition.

There cannot be any dispute that the transfer is not only an incidence of service but also one of the service conditions of an employee. An employee cannot claim any right to remain at a particular place, but at the same time the employer cannot effect transfers as frequently as he can. As seen from the impugned proceedings dated 5.8.2004, the 1st petitioner was posted as Additional Asst. Engineer, Chinnamandem from Head Office. This order does not indicate that at the behest of political parties or basing on the representations given by political leaders the transfer has been effected and it indicates that for the purpose of smooth and fair administration the transfer has been effected. Therefore, this order does not suffer from any serious legal infirmities so as to call for interference by this court.

However, vide the same proceedings, the 2nd petitioner was transferred from Chinnamandem to Head Office. The proceedings dated 21.8.2004 would indicate that in partial modification of the proceedings dated 5.8.2004 the 1st petitioner is posted at L.R.Palli Section. This is also not based on any representation made by the political parties. But, however, vide

proceedings dated 6.7.2004 the 1st petitioner who was holding the post of SPM Section as additional charge, was withdrawn whereas the 2nd petitioner was transferred to L.R.Palli from Head Office. Within one month thereafter the 2nd petitioner was again posted to Head Office. This order was given in pursuance of the circumstances explained by the District Youth Congress Leader dated 2.7.2004. The respondent has got power to effect transfers for smooth functioning of the 3rd respondent-company. When the 2nd petitioner was transferred vide proceedings dated 6.7.2004 from Head Office to L.R.Palli, vide proceedings dated 5.8.2004 again the 2nd petitioner was posted from L.R.Palli to Chinnamandem Section of Head Office whereas the 1st petitioner was transferred from Head Office to Chinnamandem by proceedings dated 5.8.2004. Again by proceedings dated 21.8.2004 he was posted to L.R. Palli. No doubt the transfer orders have been passed within a short span of time, but except stating that the transfer orders have been politically motivated rather than on administrative convenience, no specific malice is attributed to 3rd respondent who passed the impugned proceedings. It is only alleged that the Managing Director of the 3rd respondent who is hand in glove with the local congress leaders is acting in accordance with the directions given by them instead of discharging his duties. It is too vague allegation levelled against the 3rd respondent, which is denied by the 3rd respondent. Though the transfer orders have been effected to the writ petitioners within a short span of time from one place to another place, it does not mean that the 3rd respondent with a malice is ordering transfers. Since several complaints have been received stating that the petitioners are misbehaving with the consumers, they are being shifted from one place to another. Basing on the complaints the petitioners have been transferred in the interest of the petitioners as well as the administrative convenience, but under no stretch of imagination it can be said that the transfer orders have been effected with malice intention on the part of 3rd respondent.

Therefore, the writ petition is devoid of merit and it is accordingly dismissed.

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K.C. Bhanu, J.

Date: 16--12—2004.

MVB.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner & Registrar of Cooperative Societies, Nampally, Hyderabad.
2 The District Collector, Cuddapah, Cuddapah District.
3 The Managing Director/Liquidator, RESCO Limited, Rayachoty, Cuddpah District.

4. 2CCs to G.P. for Cooperation, High Court Buildings, Hyderabad (OUT)

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